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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF FORESTRY, FISHERIES AND THE ENVIRONMENT

NO. R. 3152

17 March 2023

**NATIONAL ENVIRONMENTAL MANAGEMENT: AIR QUALITY ACT, 2004
(ACT NO. 39 OF 2004)****CONSULTATION ON PROPOSED REGULATIONS FOR IMPLEMENTING AND ENFORCING
PRIORITY AREA AIR QUALITY MANAGEMENT PLANS**

I, Barbara Dallas Creecy, Minister of Forestry, Fisheries and the Environment, hereby, under section 20, read with sections 56 and 57 of the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004), give notice of my intention to publish the Regulations for implementing and enforcing priority area air quality management plans, as set out in the Schedule hereto.

These Regulations set out the requirements necessary for implementing and enforcing any approved priority area Air Quality Management Plans. The Regulations will provide for mandatory implementation of interventions; mechanisms for government to monitor and evaluate the effectiveness of the plans; transitional arrangements as well as the activation of enforcement measures where non-compliance is identified. They apply to all key stakeholders identified to be significant contributors to poor air quality in the respective air quality management plans, including listed activities; controlled emitters; mining operations and government stakeholders.

Members of the public are invited to submit written comments, within 30 days from the date of the publication of this notice in the *Government Gazette* or in the newspaper, whichever is the later date, to the following addresses:

By post to: The Director-General: Department of Forestry, Fisheries and the Environment
Attention: Mr Olebogeng Matshediso
Private Bag X447
PRETORIA
0001

By hand at: 473 Steve Biko Road, Environment House, Arcadia, 0083

By email: OMatshediso@dffe.gov.za

Any enquiries in connection with the notice can be directed to Mr Victor Loate at Tel: 012 399 8507 / Cell: 066 081 6205, or by email: VLoate@dffe.gov.za.

Comments received after the closing date may not be considered.



BARBARA DALLAS CREECY
MINISTER OF FORESTRY, FISHERIES AND THE ENVIRONMENT

SCHEDULE

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1. Definitions

In these Regulations any word or expression to which a meaning has been assigned in the Act, will have the meaning so assigned, and unless the context otherwise indicates—

“emission reduction and management plan” means the emission reduction and management plan contemplated in regulation 5 of these Regulations, to be prepared and submitted by the identified stakeholders that aim to minimise, prevent and manage emissions;

“identified stakeholder” means a stakeholder identified in a priority area air quality management plan that has a role in the implementation thereof, and includes the stakeholders identified in terms of regulation 3(1) of these Regulations;

“National Air Quality Officer” means an officer so designated in terms of section 14(1) of the Act;

“person” includes a juristic person and organ of state;

“the Act” means the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004);

“these Regulations” means the Regulations for implementing and enforcing priority area air quality management plans, 2023.

2. Purpose

The purpose of these Regulations is to provide for the implementation and enforcement of priority area air quality management plans approved and published in terms of sections 19(1)(b) and 19(5) of the Act.

3. Application

- (1) These Regulations apply to an identified stakeholder, and includes:
 - (a) Any person conducting a listed activity;
 - (b) any person operating a controlled emitter;
 - (c) any holder of a right or permit related to a prospecting operation, exploration operation, mining operation, or production operation as defined in section 1 of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002); and
 - (d) national, provincial, and local organs of state within the boundaries of a priority area.

4. Emission reduction targets

- (1) A priority area air quality management plan must, in addition to the requirements in section 19(6) of the Act, include emission reduction targets.
- (2) Despite regulation 8, any priority area air quality management plan published prior to the commencement of these Regulations must, within two years of the commencement of these Regulations, be reviewed and updated to include emission reduction targets.

5. Emission reduction and management plan

- (1) Subject to sub-regulation (2), an identified stakeholder, including those, in regulation 3(1)(a) to (c) must, within six months of the publication of a priority area air quality management plan or reviewed plan as contemplated in regulations 4(2) or 8(1), submit for approval an emission reduction and management plan to the relevant licensing authority in respect of identified stakeholders in regulation 3(1)(a) or air quality officer in respect of identified stakeholders in regulation 3(1)(b) and (c).
- (2) An identified stakeholder in regulation 3(1)(d) must within six months of the publication of a priority area air quality management plan or reviewed plan as contemplated in regulations 4(2) or 8(1), submit an emission reduction and management plan for the activities for which it is responsible, to the Minister for noting.
- (3) The licensing authority must incorporate an approved emission reduction and management plan into the relevant atmospheric emission licence as contemplated in section 45 of the Act.
- (4) An approved or noted emission reduction and management plan must be implemented by the identified stakeholder.

6. Funding and resources for the implementation of a priority area air quality management plan

An identified stakeholder must, provide adequate financial support, funding and necessary resources to ensure the implementation of a priority area air quality management plan.

7. Reporting requirements

- (1) An identified stakeholder must by 31 March of every calendar year, submit a progress report in the format specified by the National Air Quality Officer, to the National Air Quality Officer on the implementation of its emission reduction and management plan for the preceding calendar year.
- (2) Where 31 March falls on a Saturday, Sunday or public holiday, that period must be extended to the end of the following day which is not a Saturday, Sunday or public holiday.
- (3) Where any progress report contemplated in subregulation (1) includes a report on emissions inventory, the emissions inventory report must comply with the National Atmospheric Emission Reporting Regulations, 2015 (Government Notice 163 in *Government Gazette* No. 27318 of 2 April 2015).
- (4) The National Air Quality Officer must consolidate the stakeholders' annual progress reports for inclusion in the report required in terms of section 17 of the Act on the implementation of priority area air quality management plans.

8. Review and monitoring of a priority area air quality management plan

- (1) Priority area air quality management plans must be reviewed every five years or as deemed necessary by the Minister and submitted for approval. .
- (2) Once the reviewed priority area air quality management plan is approved by the Minister, the identified stakeholder must, review its emission reduction and management plan to align with the reviewed priority area air quality management plan, and submit such plan in terms of regulation 5 of these Regulations within six months of the publication of such reviewed priority area air quality management plan.

9. Offences

- (1) An identified stakeholder, excluding those in regulation 3(1(d)), commits an offence if it —
 - (a) provides incorrect or misleading information in an emission reduction and management plan submitted in terms of these Regulations;
 - (b) fails to submit or implement an emission reduction and management plan within the specified timeframes set out in these Regulations; or
 - (c) fails to submit the required annual progress report in terms of regulation 7 of these Regulations.

10. Penalties

A person convicted of an offence in terms of regulation 9 of these Regulations is liable in the case of a first conviction to a fine not exceeding five million rand or to imprisonment for a period not exceeding five years, and in the case of a second or subsequent conviction, to a fine not exceeding ten million rand or imprisonment for a period not exceeding ten years, or in both instances to both a fine and such imprisonment.

11. General requirements

The control of dust in priority areas must be managed in line with the Regulations published in terms of section 32 of the Act.

12. Repeal of Regulations

The Vaal Triangle Priority Area AQMP Implementation Regulations, 2009 published under Government Notice R.614 of *Government Gazette* 32254 on 29 May 2009, are hereby repealed.

13. Short title and commencement

These Regulations are called the Regulations for Implementing and Enforcing Priority Area Air Quality Management Plans, 2023, and come into operation on the date of publication in the *Government Gazette*.